

PLM II
R. Root

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Lump-Sum Leave Settlement for Military Member] 9112

FILE: B-192818

DATE: February 9, 1979

MATTER OF: Brigadier General William T. Woodyard, USAF,
Retired

DIGEST: Permanent professor at United States Air Force Academy with over 36 years of active service computed under 37 U.S.C. § 205, is entitled to \$250 per month "additional pay" pursuant to 37 U.S.C. § 203(b). Such additional pay is not an element of base (rank) and longevity (years of service) pay, but accrues to particular individuals incident to a particular duty assignment, and as such does not constitute "basic pay" for the purposes of computing lump-sum leave entitlements in accordance with 37 U.S.C. § 501 (b)(1). AGC00810

This action is in response to a letter dated July 19, 1978, from C. L. Martin, Jr., Lieutenant Colonel, USAF, Director, Accounting and Finance, Department of the Air Force, Headquarters United States Air Force Academy, USAF Academy, Colorado 80840, requesting an advance decision on a lump-sum leave settlement in the case of Brigadier General William T. Woodyard, USAF, Dean of the Faculty, United States Air Force Academy. The request was approved by the Department of Defense Military Pay and Allowance Committee as Air Force Submission No. DO-AF-1302.

At issue is whether General Woodyard, having requested lump-sum leave settlement for 60 days' accrued leave incident to his August 31, 1978 retirement from active duty, is entitled to have the additional pay of \$250 per month authorized Air Force Academy permanent professors with over 36 years of active service included in the settlement.

The statutory authority for the payment for accrued leave to the credit of an officer of an armed force upon separation or release from active duty is contained in 37 U.S.C. 501(b)(1) (1976), which states as follows:

"(b)(1) A member of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Oceanic and Atmospheric Administration, who has accrued leave to his credit at the time of his discharge, is entitled to be paid in cash or by a check on the Treasurer of the

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United States for such leave on the basis of the basic pay to which he was entitled on the date of discharge."
(Emphasis added.)

Subsection (b) of 37 U.S.C. § 501 was amended by Public Law 94-361, Title III, § 304(c) (July 14, 1976), 90 Stat. 923, 925. Prior to amendment, lump-sum leave entitlements were determined on the combined basis of the basic pay and allowances to which a member was entitled on the date of discharge. Therefore, the revised text has clearly deleted consideration of allowances in formulating lump-sum leave entitlements. Thus, the question for consideration in this decision is whether the \$250 per month additional payment provided by 37 U.S.C. § 203(b) is "basic pay" for purposes of formulating lump-sum leave payments pursuant to 37 U.S.C. § 501(b)(1).

The rates of "basic pay" of members of the uniformed services are prescribed under 37 U.S.C. 203(a) and 1009 (1976), and are functions of the members' pay grades and years of service. 37 U.S.C. 204 (1976). The statutory authority for the additional pay of \$250 per month to permanent professors at the United States Air Force Academy with over 36 years of service, is contained in 37 U.S.C. § 203(b) which provides in part as follows:

"(b) While serving as a permanent professor at * * * the United States Air Force Academy * * * an officer who has over 36 years of service computed under section 205 of this title is, in addition to the pay and allowances to which he is otherwise entitled under this title, entitled to additional pay in the amount of \$250 a month. This additional pay may not be used in the computation of retired pay."

Public Law 88-132, § 2, October 2, 1963, 77 Stat. 210, 212, added subsection (b) of 37 U.S.C. § 203. Senate Report, No. 387 88th Congress, 1st Session, August 5, 1963, states at pages 20 and 21 as follows concerning that provision:

"The committee deleted the language in the House bill which would have established two new longevity increments at 31 and 36 years of service for permanent professors at the U.S. Military Academy and

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U.S. Air Force Academy. The present military pay system provides for no longevity increases for commissioned officers in any grade beyond 26 years of service. Many officers complete more than 30 years of service, but under the present system are granted no longevity increases beyond the present points. Despite the additional period of time an Academy professor remains on active duty beyond the 30-year point, the addition of longevity increments for this group alone would create a distinction between these officers and those serving in other capacities in the service who remain on duty beyond 30 years.

"It should be noted that the permanent professors under other provisions of the bill would receive the authorized basic pay increases provided for their grade."

The essential elements in fixing basic pay are pay grade (rank) and years of service (longevity). Both are addressed in the legislative history. Additional longevity increments were deleted, and reference is made to the fact that permanent professors, under other provisions of the bill, would receive the authorized basic pay increases provided elsewhere in the law for all members of their grade.

In our decision in 35 Comp. Gen. 699, 701 (1956), we concluded in part that an individual was entitled to payment for his accrued unused leave "computed on the basis of the base and longevity pay (basic pay) and allowances of such commissioned grade." See also 51 Comp. Gen. 312 (1971).

Therefore, the additional pay of \$250 per month prescribed by 37 U.S.C. § 203(b) is not an element of base and longevity pay (basic pay), but is instead "additional pay" provided incident to a particular duty assignment. Accordingly, such additional pay may not be included in computing basic pay for purposes of formulating lump-sum leave payments pursuant to 37 U.S.C. § 501(b)(1).

Accordingly, payment on the voucher submitted is not authorized and it will be retained here.


Deputy Comptroller General
of the United States